From: Fredericks, Fred
To: Microsoft ATR
Date: 1/23/02 9:18am
Subject: Microsoft Settlement

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Under the Tunney Act, I would like to comment on the proposed Microsoft settlement. I have several problems with the settlement.

1) The PFJ does not prohibit Microsoft from increasing the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities.

2) The PFJ contains overly narrow definitions - for example A) it forces Microsoft to publish its secret API's, but defines API so narrowly that Microsoft will be able to avoid disclosure B) it allows users to replace Microsoft middleware with competing middleware but defines "middleware" so narrowly that the next version of Windows may not be covered at all. C) The PFJ does not cover Microsoft .NET - it allows users to replace Microsoft Java with a competing product but Microsoft is phasing Java out in favor of .NET. D) The PFJ requires Microsoft to release the API information but prohibits competitors from using it to develop operating systems that are compatible with Windows (and thus could compete with Windows).

3) The PFJ does not prohibit Anticompetitive licensing terms currently used by Microsoft. Microsoft's enterprise licensing scheme still has large companies paying per machine that *could* run Windows instead of those that do - this type of licensing is similar to those banned by the 1994 consent decree. Microsoft's licensing also restricts vendors from installing other competing operating systems to operate side-by-side with Windows.

4) The PFJ as written does not contain an effective enforcement mechanism.

I believe that the PFJ should not be adopted without substantial revision to address these problems.

Sincerely,
Michael Fredericks
4773 Tapestry Dr

Fairfax, VA 22032